

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Case No. BKY 03-41543

Tami Lynne Athens,

Chapter 7 Case

ADV 03-4147

Debtor.

John W. Bunch,

Plaintiff,

**DEFENDANT'S RESPONSE TO  
PLAINTIFF'S MOTION FOR  
SANCTIONS AND FOR LEAVE TO  
FILE AMENDED COMPLAINT**

vs.

Tami Lynne Athens,

Defendant.

TO: Plaintiff and other entities listed in Local rule 1204(a).

1. Defendant, Tami L. Athens, by and through her undersigned attorney, makes the following response to the Motion for Sanctions and Motion for Leave to File Amended Complaint filed by Plaintiff, John W. Bunch.

2. The Court will hold a hearing on the Motion on September 22, 2004, at 10:30 A.M., or as soon thereafter as counsel may be heard, in Courtroom 7 West, U.S. Courthouse, 300 South 4<sup>th</sup> Street, Minneapolis, MN.

3. Counsel for Defendant was on vacation during the period September 10, 2004 to September 19, 2004, and only received notice of this Motion on September 20, 2004.

4. Counsel for Defendant also has a Motion scheduled before the Hennepin County District Court Family Court for September 22, 2004, at 10:30 A.M. If oral argument is necessary on this instant Motion, counsel requests that it be scheduled for a different day.

5. Counsel for the parties have not conferred regarding Plaintiff's discovery requests at any time following the re-conversion of this case back to Chapter 7.

6. The Adversary Proceeding in this case was suspended by the Court following Defendant's conversion of this case to Chapter 13 on April 29, 2004. As a result, Defendant's obligation to respond to Plaintiff's discovery requests was also suspended.

7. This Court has not formally re-instituted this Adversary Proceeding.

8. Defendant will comply with the Court's January 20, 2004 Discovery Order on such schedule as the Court may order.

9. Defendant has no objection in principle to Plaintiff's Motion for leave to file an amended complaint, but Defendant cannot give final consent until Plaintiff generates the proposed amended complaint.

WHEREFORE, the Defendant requests relief in accordance with Chapter 7 of the Bankruptcy Code.

Dated: September 20, 2004

/e/ George W. Roberts  
George W. Roberts #92186  
1433 Utica Avenue South, #240  
Minneapolis, MN 55416  
Telephone: (952) 544-7676  
Attorney for Defendant

Bky: AthensMotRespSan

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

Case No. 03-41543

**UNSWORN DECLARATION  
FOR PROOF OF SERVICE**

TAMI LYNNE ATHENS,

Debtor(s)

Chapter 7 Case

ADV No. 03-4147

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I, George W. Roberts, declare under penalty of perjury that on September 20, 2004, I mailed copies of the following documents:

1. Defendant's Response to Plaintiff's Motion for Sanctions and Leave to Serve Amended Complaint,

by first class mail, and/or FAX, postage prepaid, to each entity set forth on the attached service list.

Dated: September 20, 2004

/s/ George W. Roberts

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George W. Roberts

TAMI LYNNE ATHENS

SERVICE LIST

John W. Bunch  
2705 Xanthus Lane  
Plymouth, MN 55447  
(FAX (952) 249-1600

U. S. Trustee  
1015 U.S. Courthouse  
300 South Fourth Street  
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Trustee in Bankruptcy  
120 South Sixth Street, Suite 2500  
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Tami Lynne Athens  
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Brooklyn Park, MN 55444